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GREENBERG TRAURIG, LLP 77 WEST WACKER DRIVE SUITE 3100 CHICAGO, IL 60601-1732				BUCHANAN, CHRISTOPHER R
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT H. SCHEER

Appeal 2009-000418
Application 09/867,200
Technology Center 3600

Decided: November 20, 2009

Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

The Appellant has filed a request for rehearing under 37 § C.F.R. 41.52 requesting that we reconsider our Decision of July 14, 2009 wherein we affirmed the rejections of claims 1-4.

THE INVENTION

The Appellant's claimed invention is directed to a method for managing inventory with a supply chain. (Spec. 3:18-23).

ANALYSIS

The Appellant argues that the rejection of the claims under 35 U.S.C. § 103(a) as unpatentable over Caveney and Tsukishima is improper because the references fail to disclose:

- a) using a critical stocking ratio for each of the plurality of items *to apportion the total quantity of each of the plurality of items which can be held in inventory over the forecast period in shares to a plurality of distribution points in the supply chain;*
- b) *determining a replenishment method for each of the plurality of items at each of the plurality of distribution points in the supply chain; or*
- c) *executing the replenishment method to create orders for items at any of the plurality of distribution points in the supply chain* that fail to have a base stock level for any of the plurality of items thereby causing inventory within the supply chain to be managed in accordance with the critical stocking ratio. (Request 1-2).

The Appellant argues that the Decision never concluded that Tsukishima disclosed managing inventory and determining and executing a

replenishment method over a plurality of distribution points in a supply chain (Request 2).

Having considered the Request for Reconsideration in full note we cite that the Decision of July 14, 2009 found in Finding of Facts 3-5 (emphasis added) that:

FF3. Tsukishma discloses a method for calculating the required quantity of material (Title).

Material/quantity requirements planning method (MRP) arithmetic units are disposed in parallel for determining items and quantities required for the production schedule (Abstract). Figure 1 shows the MRP units in parallel.

FF4. Tsukishma discloses that the arithmetic unit 34 determines *inventory allotment, lot arrangement*, and lead time as parts of the MRP arithmetic procedure and that the expansion module 23 of the data managing unit 20 is designed to arithmetically determine or calculate the required quantities of the child-items, respectively, on the basis of the net required quantity of the parent item (Col. 7:40-48).

FF5. Tsukishma discloses that *for each item a 1) total required quantity is calculated, 2) a net required quantity is calculated, and 3) a lot arrangement is calculated* (Col. 1:61-Col. 2:5)¹.

Thus the Decision specifically found (FF5) that Tsukishma disclosed *for each item: a 1) total required quantity is calculated, 2) a net required quantity is calculated and 3) a lot arrangement is calculated*. Tsukishma's "*lot arrangement*" as described necessarily defines how the items are

¹ We note a typographical error in FF5. The citation listed as ending at Col. 2:5 should be 2:15.

“arranged” or “distributed” in the system in some manner. Thus, Tsukishma’s “lot arrangement” shows the distribution of the items in some manner and is equivalent to showing the items “arranged” in “lots” and therefore distributed in a “supply chain” of some kind. As such, Tsukishma therefore discloses apportioning a number of items or shares at the “each of the plurality of distribution points in a supply chain” as the “lot arrangement” would serve as the plurality of distribution points. While Tsukishma does not use the exact term “supply chain” the disclosure of the “lot arrangement” clearly discloses that the items are distributed at different “points” or “lots” which would entail a “supply chain” of some kind. Items held in an inventory in “arranged lots” can be considered part of a “supply chain”. Further, Tsukishma’s system could not operate unless it was determined how the items quantities were distributed in the described “lot arrangement”. Tsukishma would inherently determine the replenishment method and execute the replenishment method of items in order to stock each “lot arrangement” or “distribution point in the supply chain”. For the above reasons the Request for Rehearing is denied.

DECISION

Accordingly, the Appellant’s request for rehearing is denied.

DENIED

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MP

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